

FIRST REGULAR SESSION

HOUSE BILL NO. 1158

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKLIN.

2281H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 210.152, RSMo, and to enact in lieu thereof one new section relating to child abuse reports.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.152, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.152, to read as follows:

210.152. 1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division and removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) (a) For investigation reports initiated against a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report by a person required to report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(b) For investigation reports, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (c) For investigation reports initiated by a person required to report under section
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
19 information shall be retained for five years from the conclusion of the investigation. For all other
20 investigation reports where insufficient evidence of abuse or neglect is found by the division,
21 identifying information shall be retained for two years from the conclusion of the investigation.
22 Such reports shall include any exculpatory evidence known by the division, including
23 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
24 identifying information shall be removed from the records of the division and destroyed;

25 **(d) For investigation reports where the division has sufficient evidence, but for the**
26 **identification of a specific perpetrator or perpetrators, to determine that a child was**
27 **abused or neglected, the division shall retain the report and all identifying information, but**
28 **shall not place a perpetrator on the central registry. The division shall retain all**
29 **identifying information for the purpose of utilizing such information in subsequent**
30 **investigations or family assessments of the same child, the child's family, or members of**
31 **the child's household. The division shall retain and disclose information and findings in**
32 **the same manner as the division retains and discloses family assessments. If the division**
33 **made a finding of abuse or neglect against an unknown perpetrator prior to August 28,**
34 **2017, the division shall remove the unknown perpetrator from the central registry, but**
35 **shall retain and utilize all identifying information as otherwise provided in this section;**

36 (3) For reports where the division uses the family assessment and services approach,
37 identifying information shall be retained by the division;

38 (4) For reports in which the division is unable to locate the child alleged to have been
39 abused or neglected, identifying information shall be retained for ten years from the date of the
40 report and then shall be removed from the records of the division.

41 2. Within ninety days, or within one hundred twenty days in cases involving sexual
42 abuse, or until the division's investigation is complete in cases involving a child fatality or
43 near-fatality, after receipt of a report of abuse or neglect that is investigated, the alleged
44 perpetrator named in the report and the parents of the child named in the report, if the alleged
45 perpetrator is not a parent, shall be notified in writing of any determination made by the division
46 based on the investigation. The notice shall advise either:

47 (1) That the division has determined by a probable cause finding prior to August 28,
48 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists
49 and that the division shall retain all identifying information regarding the abuse or neglect; that
50 such information shall remain confidential and will not be released except to law enforcement
51 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
52 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's

53 determination through a review by the child abuse and neglect review board as provided in
54 subsection 4 of this section; ~~or~~

55 (2) That the division has not made a probable cause finding or determined by a
56 preponderance of the evidence that abuse or neglect exists; **or**

57 **(3) The division has been unable to determine the identity of the perpetrator of the**
58 **abuse or neglect. The notice shall also inform the child's parents and legal guardian that**
59 **the division shall retain, utilize, and disclose all information and findings as provided in**
60 **family assessment and services cases.**

61 3. The children's division may reopen a case for review ~~[at the request of the alleged~~
62 ~~perpetrator, the alleged victim, or the office of the child advocate]~~ if new, specific, and credible
63 evidence is obtained ~~[that the division's decision was based on fraud or misrepresentation of~~
64 ~~material facts relevant to the division's decision and there is credible evidence that absent such~~
65 ~~fraud or misrepresentation the division's decision would have been different. If the alleged~~
66 ~~victim is under the age of eighteen, the request for review may be made by the alleged victim's~~
67 ~~parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall~~
68 ~~be made within a reasonable time and not more than one year after the children's division made~~
69 ~~its decision. The division shall not reopen a case for review based on any information which the~~
70 ~~person requesting the review knew, should have known, or could by the exercise of reasonable~~
71 ~~care have known before the date of the division's final decision in the case, unless the person~~
72 ~~requesting the review shows by a preponderance of the evidence that he or she could not have~~
73 ~~provided such information to the division before the date of the division's final decision in the~~
74 ~~case. Any person, other than the office of the child advocate, who makes a request to reopen a~~
75 ~~case for review based on facts which the person knows to be false or misleading or who acts in~~
76 ~~bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity~~
77 ~~from any liability, civil or criminal, for providing the information and requesting that the division~~
78 ~~reopen the investigation. Any person who makes a request to reopen an investigation based on~~
79 ~~facts which the person knows to be false shall be guilty of a class A misdemeanor. The~~
80 ~~children's division shall not reopen an investigation under any circumstances while the case is~~
81 ~~pending before a court of this state nor when a court has entered a final judgment after de novo~~
82 ~~judicial review pursuant to this section].~~

83 4. Any person named in an investigation as a perpetrator who is aggrieved by a
84 determination of abuse or neglect by the division as provided in this section may seek an
85 administrative review by the child abuse and neglect review board pursuant to the provisions of
86 section 210.153. Such request for review shall be made within sixty days of notification of the
87 division's decision under this section. In those cases where criminal charges arising out of facts

88 of the investigation are pending, the request for review shall be made within sixty days from the
89 court's final disposition or dismissal of the charges.

90 5. In any such action for administrative review, the child abuse and neglect review board
91 shall sustain the division's determination if such determination was supported by evidence of
92 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after
93 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect
94 review board hearing shall be closed to all persons except the parties, their attorneys and those
95 persons providing testimony on behalf of the parties.

96 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect
97 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the
98 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in
99 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a
100 resident of the state, proper venue shall be in Cole County. The case may be assigned to the
101 family court division where such a division has been established. The request for a judicial
102 review shall be made within sixty days of notification of the decision of the child abuse and
103 neglect review board decision. In reviewing such decisions, the circuit court shall provide the
104 alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may
105 subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
106 shall have the discretion to allow the parties to submit the case upon a stipulated record.

107 7. In any such action for administrative review, the child abuse and neglect review board
108 shall notify the child or the parent, guardian or legal representative of the child that a review has
109 been requested.

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